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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

United States of America,  
  
Plaintiff,  
  
vs.  
  
David Allen Harbour,  
  
Defendant.

No. CR-19-00898-PHX-DLR

**JOINT PROPOSED VOIR DIRE**

The United States of America and Defendant David Allen Harbour, by and through undersigned counsel, hereby respectfully submit the following stipulated Proposed Joint Voir Dire. The United States objects to all of Defendant's proposed voir dire as either duplicative or inappropriate.

Respectfully submitted this 4th day of January, 2023.

GARY M. RESTAINO  
United States Attorney  
District of Arizona

s/ Coleen Schoch  
KEVIN RAPP  
COLEEN SCHOCH  
Assistant United States Attorneys

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6 IN THE UNITED STATES DISTRICT COURT  
7 FOR THE DISTRICT OF ARIZONA

8 United States of America,  
9 Plaintiff,

No. CR-21-00278-PHX-DLR

10 vs.

**VOIR DIRE**

11 David Allen Harbour,  
12 Defendant.  
13  
14

15 **STANDARD CRIMINAL VOIR DIRE**

- 16 1. Have any of you ever seen or heard anything about this case from any source  
17 whatsoever?
- 18 2. Ladies and Gentlemen, on the sheet given to you are a list of questions. Starting  
19 with juror number one, please stand and answer the questions. The last question asks  
20 about your prior jury service. With respect to civil cases, please just tell me the  
21 number of civil juries on which you have served. With respect to criminal cases,  
22 please indicate the nature of the crime involved and the result of the case, guilty, not  
23 guilty or hung jury, for each of the criminal juries you have been on.

24 Voir Dire Sheet questions:

- 25 1. Juror number  
26 2. The general location of your residence  
27 3. Length of time at current residence  
28 4. Education after high school, if any. State your major

1 5. Marital status

2 6. Number of children. Ages of children, if under 18

3 7. Employment

4 A. Yourself – current job and types of jobs throughout lifetime

5 B. Spouse – current job and types of jobs throughout lifetime

6 8. Civil, social, fraternal, union or professional organizations.

7 Offices held in them

8 9. Hobbies or recreational activities

9 10. Prior jury service – civil or criminal

10 3. Did any of you know each other before this morning?

11 If so, would your acquaintance with any other juror affect your ability to  
12 deliberate and to reach your own independent decision as a juror in this case?

13 4. I will now read the names of the witnesses who may be called during this trial. If  
14 you know or think you might know any of the witnesses, please raise your hand and  
15 juror number at any time. The potential witnesses are:

16 [See Witness List]

17 5. Again, do any of you know or think you might know any of the witnesses?

18 6. Please note that the defendant, the attorneys and all witnesses have been instructed  
19 not to speak to you at any time either before or during the trial. Therefore, please do  
20 not feel offended if you see any of them outside the courtroom and they do not speak  
21 with you.

22 7. I expect to conduct trial on these dates and times:

23 Wednesday, February 1, 2023 through Friday, February 24, 2023;

24 Trial will not be conducted on Mondays

25 8:45a.m. to 4:30 p.m. One hour break for lunch.

26 We will usually take one break in the morning and one break in  
27 the afternoon of about 20 minutes.

28 1. Would this schedule create an undue hardship for any of you?

1           2. Would the length of the trial create an undue hardship for any of you?

2   8.    Do any of you have any other reasons whatsoever, such as physical difficulty, a  
3       health problem or home problems that might interfere with your serving as a fair  
4       and impartial juror in this case?

5   9.    Have you or any members of your family, including brothers, sisters, parents or  
6       children, or close friends ever been the victims of criminal conduct such that you  
7       would not be a fair and impartial juror in this case?

8           As to each yes response: If yes, please explain, including what the incident was,  
9       what police agency investigated, did you have to make a statement, and whether  
10      the responsible party apprehended, and why that experience prevents you from  
11      being a fair and impartial juror in this case.

12   10.   Most people or their family or close friends have been victims of minor crimes, such  
13      as burglary, auto theft, and auto accidents involving impaired drivers. Have you or  
14      any members of your family, including brothers, sisters, parents, or children, or  
15      close friends ever been the victims of serious criminal conduct involving serious  
16      property damage or bodily injury?

17           As to each yes response: If yes, please explain, including what the incident was,  
18      what police agency investigated, did you have to make a statement, and whether  
19      the responsible party was apprehended and why that experience prevents you  
20      from being a fair and impartial juror in this case.

21   11.    Have you or any members of your family ever been convicted of a felony?

22           If so, which family member, what offense, and what was the disposition? Would  
23      this experience prevent you from being fair and impartial in this case?

24   12.    Are any of you or any members of your family or close friends now serving or have  
25      ever served in the capacity of law enforcement officer?

26           Please note that in the definition of law enforcement officer, I am including not  
27      only police officers, but also employees of law enforcement agencies, Federal  
28      Bureau of Prisons, military police, INS, border patrol, DEA, ATF, DOJ,

1 Department of Homeland Security, or other government law enforcement or  
2 intelligence agency, etc.

3 Do you think this relationship would prevent you from being fair and impartial  
4 in this case?

5 13. There may be witnesses called during this trial who are members of law enforcement  
6 and who may have been in that profession for a number of years.

7 Is there anything about the law enforcement profession and/or about the witness  
8 having been engaged in such profession for a number of years that would cause  
9 you to either give greater or lesser weight or credibility to their testimony solely  
10 by virtue of their employment in law enforcement?

11 14. Have any of you or members of your family been a party or witness in any litigation  
12 (excluding family law matters, traffic cases, and probate matters)?

13 To all who answered yes: Do you think this experience would prevent you from  
14 being fair and impartial in this case?

15 Addressed individually: What kind of case were you a witness in, and which  
16 party called you as a witness?

17 15. Do any of you or any of the members of your family have any legal training?

18 To all who answer yes: Do you think this training would affect your ability to be  
19 fair and impartial in this case?

20 Addressed individually: What was your legal training?

21 16. The defendant in this case is African American. Is there anything about the  
22 defendant's racial or ethnic status that would prevent you from being a fair and  
23 impartial juror in this case?

24 17. Have you had experiences with African Americans that might influence your ability  
25 to be fair and impartial?

26 18. **Not Applicable** [Do you disagree with the fact that the United States has the  
27 right to prosecute felony offenses on Indian Reservations?]

28 19. **Not Applicable** [There may be evidence in this case of alcoholic beverage

1 drinking to excess. Do any of you not drink alcoholic beverages?]

2 20. **Not Applicable** [Have you or any member of your family or a close friend ever  
3 suffered harmful consequences from drinking alcohol?]

4 21. **Not Applicable** [Do you have any strong feelings about drinking alcoholic  
5 beverages?]

6 22. **Not Applicable** [Would your feelings about alcohol consumption affect your  
7 ability to be a fair and impartial juror in this case?]

8 23. I will instruct you what the law is at the conclusion of the case. If selected as a juror,  
9 you will take an oath to follow the law. Does anyone think you would have trouble  
10 following the law even if you may disagree with it?

11 24. In a civil case the burden of proof is preponderance of the evidence. This is a  
12 criminal case in which the government must prove guilt beyond a reasonable doubt.  
13 That requires proof that leaves you firmly convinced that the Defendant is guilty.  
14 Does anyone have any difficulty in holding the government to its burden?

15 25. Here are some fundamental principles of law:

- 16 • The fact that an indictment or superseding indictment has been filed raises  
17 no presumption whatsoever of the guilt of the defendant.
- 18 • The United States government must satisfy you beyond a reasonable doubt  
19 of the guilt of the defendant.
- 20 • The defendant does not have any obligation to testify or to produce any  
21 evidence and you may not draw an adverse inference if the defendant chooses  
22 not to testify.
- 23 • The defendant is presumed to be innocent until his guilt is established beyond  
24 a reasonable doubt.
- 25 • You must wait until all of the evidence has been presented before making up  
26 your minds as to the innocence or guilt of the defendant.
- 27 • Does anyone believe that they will have any difficulty following these  
28 principles of law?

1 26. Do you have any strong feelings regarding any government policies which would  
2 prevent you from giving either the government or the defendant a fair trial?

3 27. Do you have any strong feelings regarding the criminal justice system in this  
4 country, including by not limited to, your feelings about judges and lawyers, that  
5 would prevent you from giving either the government or the defendant a fair hearing  
6 in this matter?

7 28. Do you have a belief, whether religious or philosophical, which makes it difficult  
8 for you to sit in judgment of another?

9 If so: Would this believe make it difficult for you to be a fair and impartial  
10 juror?

11 29. **Not Applicable** [[If interpreters:] This case will involve official court  
12 interpreters. Do you know the [ ] language? If so, will you be able to set aside that  
13 knowledge and rely solely on the official English translation?]

14 30. Counsel for the Government, do you have any further questions at this time?  
15

16 **UNITED STATES ADDITIONAL PROPOSED VOIR DIRE**

17 31. Does anyone have difficulty reading or understanding the English language?

18 32. Does anyone have difficulty hearing?

19 33. Introduce self and staff. Do any of you know me or any member of my staff on any  
20 basis, social, professional or otherwise?

21 34. The United States is represented by Kevin Rapp and Coleen Schoch. Counsel,  
22 please stand. Mr. Rapp and Ms. Schoch are Assistant United States Attorneys. The  
23 United States Attorney is Gary Restaino. Do any of you know counsel, or the United  
24 States Attorney, or any of the employees in his office on any basis, social,  
25 professional or otherwise?

26 35. The defendant is represented by Stephen Dichter and Justin Vanderveer. Counsel  
27 please stand. Do any of you know the defendant's attorney or any employees of  
28 their office on any basis, social, professional or otherwise?

- 1 36. Counsel, please introduce your client. Do any of you know the defendant on any  
2 basis, social, professional, or otherwise?
- 3 37. Is there anyone on the panel who believes that federal laws in general punish too  
4 harshly?
- 5 38. If selected to serve as a juror in this case, you will be instructed that you are not to  
6 consider punishment, as that is for the court to decide. Will you be able to put any  
7 consideration of punishment out of your minds and consider only the evidence  
8 introduced and the law as explained to you by the judge?
- 9 39. Does anyone have negative feelings toward the Federal Bureau of Investigation, the  
10 Internal Revenue Service, the Department of Justice; or other law enforcement  
11 officials?
- 12 40. Has anyone had a negative experience with any representative of the Federal Bureau  
13 of Investigation, the Internal Revenue Service, or with any employee of the  
14 Department of Justice?
- 15 41. The defendant in this case is charged with the crimes relating to financial fraud and  
16 tax fraud. Would that fact alone affect your ability to be fair and impartial in this  
17 case?
- 18 42. Does anyone believe that any of the crimes charged in this case should not be  
19 crimes?
- 20 43. Would anyone like the tax laws to be changed?
- 21 44. Does anyone belong to an organization that advocates for changes to tax laws?
- 22 45. Does anyone have feelings about financial fraud or tax fraud that would affect your  
23 ability to be fair and impartial in this case?
- 24 46. If selected to serve as a juror in this case, you will be instructed that you are not to  
25 consider punishment, as that is for the court to decide. Will you be able to put any  
26 consideration of punishment out of your minds and consider only the evidence  
27 introduced and the law as explained to you by the judge?
- 28 47. If you were on one side or other, as either prosecution or defense, would you be



1 satisfied to have someone with your present feelings and outlook serving on the  
2 jury?

3 48. Does anyone have concerns relating to COVID-19 that would affect your ability to  
4 give your full attention to the trial in this case?

5  
6 **JOINT ADDITIONAL PROPOSED VOIR DIRE**

7 49. Have you or anyone you know suffered a financial loss as a result of payday lending,  
8 tax evasion or mortgage fraud? If so, please describe.

9 50. Have you or anyone you know ever been accused of alleged payday lending, tax  
10 evasion or mortgage fraud?

11 51. Does anyone have any training or education in commercial or consumer lending,  
12 and if so, what specific training or education he/she has received and in what  
13 context?

14  
15 **DEFENDANT'S ADDITIONAL PROPOSED VOIR DIRE**

16 1. Please state your name.

17 2. Please state your address.

18 3. Please state your date of birth.

19 4. Please state your place of birth.

20 5. Please tell us about your education and what was the last year of school finished by  
21 you.

22 6. Please state your occupation.

23 7. Please tell us about your duties at your place of employment.

24 8. When did you start working there?

25 9. What was your occupation before your present employment?

26 10. What were your duties and responsibilities in that employment?

27 11. What is your marital status?

28 12. If married, what is your spouse's place of employment?

- 1 13. How many children do you have; how many boys and how many girls and what are
- 2 their ages?
- 3 14. If your children are employed, where are they employed?
- 4 15. Where do your children reside?
- 5 16. How long have you resided at your present residence?
- 6 17. What organizations do you belong to?
- 7 18. What local newspapers do you read? Do you read them fairly regularly? Do you
- 8 watch the local news on T.V.? What is your favorite T.V. Program?
- 9 19. Are you generally inclined to believe what people may write or say when those
- 10 people have particular education or experience in what they are discussing?
- 11 20. Have you ever served as a juror before?
- 12 21. What kind of case?
- 13 22. Where?
- 14 23. Was a verdict reached?
- 15 24. Is there anything about your experience as a juror which would effect your sitting
- 16 as a juror in this case?
- 17 25. Have you ever been personally interested in the outcome of a criminal case?
- 18 26. If so, was it because you were a victim of a crime, a witness to a crime, or some
- 19 other reason?
- 20 27. Have any of your family or close friends been personally interested in the outcome
- 21 of a criminal case?
- 22 28. If so, why?
- 23 29. Is there anything about the nature of this case that affects you one way or the other?
- 24 30. Do you realize that we are here to try a case in which the Defendant is charged with
- 25 committing a crime?
- 26 31. Do you realize that the Defendant is presumed innocent unless and until he is proven
- 27 guilty beyond a reasonable doubt?
- 28 32. Do you understand that the Defendant pleaded Not Guilty and he invokes his

- 1 constitutional right to have the government to present evidence with proof beyond  
2 a reasonable doubt to overcome the presumption of innocence?
- 3 33. Do you understand that the presumption of innocence is not to shield the guilty but  
4 only to protect the innocent?
- 5 34. If you are satisfied that the government has not met its proof would you hesitate to  
6 bring back a verdict of Not Guilty?
- 7 35. Seeing the Defendant here, do you feel that you are emotionally capable of bringing  
8 in a verdict of Not Guilty, should the government fail to prove the crimes charged  
9 beyond a reasonable doubt?
- 10 36. Do you understand that both the Defendant and the government are entitled to have  
11 twelve (12) jurors with free and open minds who are fair , unprejudiced and  
12 unbiased?
- 13 37. Do you feel as you sit here now that you are in such a frame of mind that you will  
14 be able to give both the Defendant and the government a fair trial?
- 15 38. Is there anything about the nature of the alleged offenses which would influence  
16 your judgment in any way?
- 17 39. Have you or any friends or relatives ever been the victim of a crime?
- 18 40. Do you know any other prospective jurors?
- 19 41. Are you willing as a juror to return a verdict of Not Guilty if there are two reasonable  
20 theories, one of which leads to innocence and one of which leads to guilt since the  
21 government has the burden of proof beyond a reasonable doubt to prove the  
22 elements of a crime?
- 23 42. Are you willing as a juror to stay as long as is necessary to reach a verdict?
- 24 43. Is there anything in your heart that you haven't told me about yourself to which the  
25 government and the Defendant would be entitled to know in order to judge whether  
26 or not you can sit fairly and impartially in this case?
- 27 44. Have you ever had any experience with any police or other law enforcement  
28 officers? What was your opinion about the way the officers behaved during that

- 1 experience?
- 2 45. Would your experience with the police officers tend to make you believe that law
- 3 enforcement officers are special whose testimony is more believable than the
- 4 testimony of some other person?
- 5 46. Do you think a law enforcement officer's judgment and observations would be better
- 6 or more reliable than your own?
- 7 47. Do you have any relatives or friends who are in the Internal Revenue Service or law
- 8 enforcement agency, such as the FBI or DEA, or any local police departments?
- 9 What is your relationship with them? How often do you see them? Have you ever
- 10 discussed their jobs with them?
- 11 48. Can you recall any instance in which you thought the police were wrong in arresting
- 12 somebody?
- 13 49. If a relative or close friend were charged with something and were sitting here in
- 14 place of the Defendant, what would your feelings be as he or she sat here?
- 15 50. Is there anything about the nature of the charges alleged in this case that would
- 16 prevent your listening and carefully considering the evidence introduced by the
- 17 Defendant?
- 18 51. What is your personal opinion regarding stock trading in general?
- 19 52. Do you recall ever having a conversation with others in which the general subject
- 20 of alleged payday lending, tax evasion or mortgage fraud was discussed? If so, can
- 21 you recall what opinion you expressed at that time?
- 22 53. What is your first reaction, when you hear a news report on the TV or radio that
- 23 someone was arrested for alleged payday lending, tax evasion or mortgage fraud?
- 24 56. Do you have any strong feelings against someone accused of alleged payday
- 25 lending, tax evasion or mortgage fraud? If yes, please explain.
- 26 57. Have any of you, your relatives, or close friends, had a bad experience with the
- 27 Internal Revenue Service, the United States Attorney's Office, or any other law
- 28 enforcement agency (state or federal) that might influence your ability to be fair and

- 1 impartial in this case?
- 2 58. Does any member of the jury panel have any member of his or her family, or a close
- 3 friend, who has been accused of payday lending, tax evasion or mortgage fraud? [If
- 4 so, we would ask the Court to follow up with questions for details who was it, what
- 5 was their experience.]
- 6 60. Do you have friends or relatives who are or have been government employees or
- 7 law enforcement employees.
- 8 61. How would you describe the Defendant to your (wife) (husband) or a friend?
- 9 62. Have you ever held the thought that defense lawyers represent people that are
- 10 guilty?
- 11 63. Can you recall instances in which you expressed your feelings about the Judicial
- 12 System in the United States?
- 13 64. Are you connected with any agency of the Federal Government?
- 14 65. Have you ever been employed by any agent of the Federal Government?
- 15 66. Do you receive social security benefits, or any other pension or other payments from
- 16 the Federal Government? If so, do you have cause to feel a particular gratitude or
- 17 allegiance to the Federal Government?
- 18 67. Please state whether any persons related to you or members of your family or
- 19 personal friends are or have been employed by any agency of the Federal
- 20 Government. If so, state the degree of this relationship and the average amount of
- 21 time you spend with this person over the course of a week or a month.
- 22 68. What do you understand by the words: “presumption of innocence”?
- 23 69. Do you think there is still a “presumption of innocence” for a defendant who is
- 24 brought to trial? Or, does the fact that a person has been accused of crime by a
- 25 grand jury, working with the federal attorneys and officers incline you to think that
- 26 the defendant must be guilty, or he wouldn't be here?
- 27 70. What do you understand by the term: “proof beyond a reasonable doubt”?
- 28 71. What is your opinion about a person who admits he has committed some offense,

1 but in exchange for leniency from the Government is willing to testify about the acts  
2 of others?

3 72. If you thought that your individual conclusion about the guilt or innocence of the  
4 Defendant would be contrary to what you think that the government, or the Judge  
5 might want you to decide, would you still be able to stand on your own personal  
6 conviction?

7 73. Have you ever had the occasion to hire a lawyer?

8 74. What lawyer?

9 75. Was it a civil or criminal case? Has anybody in your family had the occasion to hire  
10 a lawyer? What lawyer? Was it a civil or criminal case?

11 76. Do you believe lawyers should be held to a higher standard of conduct than other  
12 citizens?

13 77. Have you ever heard of the statute of limitations?

14 78. If the government had a deadline to bring charges and they are past that deadline,  
15 would you hesitate to find the Defendant not guilty?

16 79. Do you have any negative feelings about the statute of limitations?

17 80. Do you think that you could be fair and impartial if you had to consider the statute  
18 of limitations when deciding this case?

19 Defendant reserves the right to request additional questions and follow-up questions  
20 when necessary and appropriate based on the responses of the prospective jurors or if other  
21 issues arise.

22  
23 Respectfully submitted this 4th day of January, 2023.

24 GARY M. RESTAINO  
25 United States Attorney  
26 District of Arizona

27 s/ Coleen Schoch  
28 KEVIN RAPP  
COLEEN SCHOCH  
Assistant United States Attorneys

**CERTIFICATE OF SERVICE**

I hereby certify that on this same date I electronically transmitted the attached document to the Clerk's Office using the CM/ECF system for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrant(s):

Stephen M Dichter  
Justin R Vanderveer  
*Attorneys for Defendant*

s/ Coleen Schoch  
U.S. Attorney's Office